

## FARRELL, NEW U. S. STEEL HEAD

### MADE GOOD AS PRESIDENT OF EXPORT SUBSIDIARY.

Finance Committee Selects Him to Succeed Corey. He Lives in Brooklyn and Attends St. Francis Xavier's Church. Installed Orders Low Steel Dinner.

James A. Farrell, president of the United States Steel Products Export Company, the subsidiary of the United States Steel Corporation which handles its export trade, has been chosen president of the United States Steel Corporation itself, to succeed William E. Corey, whose resignation was announced a few days ago. The announcement of the selection of Mr. Farrell was made yesterday afternoon after the regular Tuesday meeting of the finance committee. Judge Gary said that all of the members of the finance committee had been present, including himself as chairman. George F. Baker, William E. Corey, Henry C. Frick, J. P. Morgan, Jr., George W. Perkins, Henry Phipps, Norman B. Read and Peter A. B. Widener. The statement is:

"The finance committee of the United States Steel Corporation after consulting individual members of the board of directors not on the committee has unanimously decided to recommend to the board at its next regular meeting the election of James A. Farrell as president of the corporation.

"Mr. Farrell has been the president of the United States Steel Products Export Company ever since its organization in 1903, and as such has demonstrated great business capacity. He has been connected with the manufacturing and commercial departments of the iron and steel industry for more than twenty years and is well qualified to fill the position. It is believed the selection will be gratifying to all of the officials of subsidiary companies, and to every one connected with the industry."

Prominent among the reasons given a few days ago for the belief that the steel corporation would not soon choose a new president and that perhaps it might not again fill that office was the statement, founded on what Judge Gary himself said in his formal announcement of the retirement of Mr. Corey, that "residents of the subsidiary companies have been found competent to handle all the details of management in which Mr. Corey and Mr. Schwab before him had been expert. The purely executive work of the corporation is now and has for some time been very much in the hands of the chairman of the finance committee. Mr. Gary, in the same expert class as either Mr. Schwab or Mr. Corey, so far as manufacturing processes go, and in the second place there has been some change of mind in the last few days among the members of the finance committee in regard to the amount of detailed executive work that Mr. Gary can handle alone. It has proved to be too much for one man."

Mr. Farrell was described by another steel official yesterday as an extraordinarily able master of the detail of industrial executive work and a man of the highest general commercial ability.

The same authority spoke very highly of Mr. Farrell's activities in his present office, in which he has charge of the corporation's export trade. In recent statements given out by officials of the steel corporation the state of the company's export trade had come in for a particular mention. That trade has been thriving to a very marked degree in the face of dullness at home, the refusal of the railroads to order rails and a generally inferior trade tone. This remarkable strength of exports under apparently unfavorable conditions has been attributed to the energy of Mr. Farrell. In fact that was Mr. Farrell's distinction and the thing that drew so much favorable attention to him. That the export trade is in a period when universal commercial stagnation was the rule was regarded as of sufficient weight to explain the selection of the head of that department of the corporation's business for president of the whole.

When asked if the selection of Mr. Farrell had any special significance with regard to the corporation's policy toward foreign and domestic trade he said that it did not mean that so large an institution was going in for a specialty, but that it did signify desire on the part of the leadership in the company to develop as quickly as possible a more extensive demand abroad. "Foreign trade will continue to be pushed," he said, "just as it has been pushed by Mr. Farrell in the past."

In Chairman Gary's recent statement, there was conspicuous mention of the probability of the selection in the near future of two new vice-presidents to aid in the executive work. According to the informant who explained yesterday afternoon's selection in regard to new president that question still remains open. When the report of friction between Mr. Corey and other officers of the corporation on the matter of a price holding of price-sliding policy and other reports of disagreement between Mr. Corey and his associates based on more personal things was mentioned to this man, the reply seemed to cover a multitude of relief. "Mr. Farrell is a family man. He lives in Brooklyn."

Mr. Farrell was born in New Haven in 1863. His family came from South Norwalk. His early life was passed in New Haven. He was there and as a boy that he first came into the steel business, working up from the bottom of the ranks to an important supervisory position. The company with which he began was the New Haven Wire Company. After a certain period in the New Haven concern Mr. Farrell went to Pittsburgh as assistant superintendent of the Oliver Iron and Steel Company. Four years later with the help of several capitalists he formed the Pittsburgh Wire Company at Braddock. When this company was absorbed by John W. Gates's American Steel and Wire Company Mr. Farrell became general sales manager of exports for the new company, which was eventually absorbed by the United States Steel Corporation. He was president of the export branch of this corporation. He had charge of the foreign

## NO SUPPORT FOR MRS. STETSON

### FIRST CHURCH, SCIENTIST, TO RETAIN PRESENT BOARD.

Virgil O. Strickler Announces That He Will Cease to Be First Reader in July—Few Indications of Any Revolt Against the Mother Church's Rule.

Any idea that the adherents of Augusta E. Stetson, the excommunicated leader of the First Church of Christ, Scientist, in this city may have had looking toward the securing of a controlling membership in the board of trustees of the church through the election which is to be held on January 17 got a severe setback last night when a meeting of the congregation endorsed all of the present anti-Stetson board for reelection.

Unless those supporting Mrs. Stetson put a rival ticket in the field between now and next Tuesday evening the present board of trustees will continue in office and the Stetson incident will be practically closed.

According to the by-laws of the First Church here three trustees of the nine are elected each year. Besides the three regular vacancies two trustees must be chosen to fill the places of those appointed after the resignation of two of Mrs. Stetson's followers last January.

Since five, or a majority of the board, were to be elected, the situation appeared to those in power to be of sufficient gravity to warrant last night's caucus. Nor was the programme put through without some indication of a difference in sentiment among the congregation.

There was a surprise for all except those in the closest confidence of Virgil O. Strickler, the first reader of the church. After the regular slate had been put through by a vote that was unanimous Mr. Strickler announced that at the expiration of his three years term as first reader of the church next July he would cease to have any official connection with the First Church in New York. He would not be a candidate for trustee nor would he continue in his present position. Mr. Strickler said:

About 700 members of the church gathered in the church building at Ninety-sixth street and Central Park West at 8 o'clock last night and the first reader announced that discussion of candidates for the five vacancies in the board of trustees was in order. The board has the power to submit a ticket, but it lies within the province of the congregation to indicate their choice of candidates, although until the recent ousting of Mrs. Stetson this prerogative was not generally exercised.

Hayne Davis, a lawyer, who on the occasion of Mrs. Stetson's banishment from the church issued statements on her behalf but who subsequently saw the light with the majority in the church, offered a motion making it the sense of the meeting that whereas the trustees now serving were called upon to act in matters of an extraordinary character and their decision was received with joyful approbation by Mrs. Eddy herself these trustees should be retained in power.

Mr. Davis's motion made a reservation denying that the returning of the present board to office would in any way appear to indicate a loss of democratic government or to refute the principle of rotation in office.

Many spoke in favor of Mr. Davis's motion, all referring to the crisis through which the First Church had recently passed, but without mentioning Mrs. Stetson's name. Martin Klein rose to protest against the motion. He said that to return the present directors to power would be in direct violation of the spirit of democratic government which Mrs. Eddy had laid down for her church. Mr. Klein said that he did not see any lingering traces of the past crisis which necessitated the retention of the present board in power. Such an action would form a dangerous precedent, the protestant said, at this time, when "the First Church has returned to normal self-control."

Two other speakers voiced their agreement with Mr. Klein's views, but the majority of those who spoke were for the retention of the present board. Some pointed out that with the exception of Mrs. Suzanne S. Thomas none of the members who are up for reelection had incurred a full term of three years, their incumbency having dated from the time of the anti-Stetson victory of a year ago.

Mr. Thomas rose to say that he would not allow her name to go before the congregation for reelection to the office which she has held for many years. She thought that the time had come when the real spirit of democratic government should be enforced. On motion the name of Miss Martha White was substituted for that of Mrs. Thomas.

When the time for Mr. Davis's motion of confidence in the present board of trustees came up for vote those who had sided with Mr. Klein in favor of a new ticket, finding themselves in the minority, made the passage of the motion unanimous.

Mr. Strickler's statement of his impending retirement came when one of the congregation rose to place his name in nomination for the board of trustees. He said:

"I am not necessary to the board of trustees, nor is any person necessary to the welfare of the church. My term of office expires in a few months and when that time comes I intend to sever all official connection with this church and to take my place in the power as a member of the congregation. I want every member of this church to believe that it is an expression of a sense of disloyalty to believe that the cause of Christian Science depends on any single individual. When I came to this office I found conditions which were wrong and with your help I did what I could to right them. My work is now finished."

Mr. Strickler denied after the meeting that his retirement from the head of the church here would be in anticipation of the acceptance of a call to serve with the heads of the Mother Church in Boston, with whom he was in close touch during the crisis attending Mrs. Stetson's eradication.

## BUSCH GIVES \$300,000.

### Money to Be Used to Complete Germanic Museum at Harvard.

PASADENA, Cal., Jan. 10.—Adolphus Busch, the brewer, has given \$300,000 to Harvard University to complete the Germanic Museum under construction there. The gift was made four weeks ago.

He has been advised that a museum building will be named Adolphus Busch Hall, and the brewer, has given \$300,000 to Harvard University to complete the Germanic Museum under construction there. The gift was made four weeks ago.

"The sum is \$300,000," said August Busch, "and the money is to be devoted to building a new structure for the Germanic Museum. The new building is to be called the 'Adolphus Busch Hall.' No conditions are attached to the gift my father has made. He is greatly interested in the Germanic Museum, to which Emperor William has made important contributions, and all Germans in the United States have taken a prominent part in fostering this branch of the great university."

"When the proposition was made to my father, he gave money to the museum he was greatly taken with it. As a matter of fact he was so interested that he made it \$300,000."

## TO SEPARATE JOINED TWINS.

### Surgeons to Attempt Operation That Never Was Tried on the Stomach Pair.

NEW ORLEANS, Jan. 10.—All the way from the Island of Samar in the Philippines Lucio and Simplicio Godino, modern "Siamese Twins," have come to New Orleans in the hope that a surgeon can separate them.

The twins are linked together in much the same manner as the famous twins of Siam, the connection being at the base of the spinal column.

J. R. Louis, a wealthy mining engineer of Los Angeles, who is paying for the trip and operation, and Dr. James H. Dunsen, also of Los Angeles, and the father of the twins accompanied them to this city.

The twins, linked as they are, feel each other's emotions. When Lucio walks forward Simplicio walks backward. When Lucio wants to sleep his brother feels drowsy, when he is hungry so is Simplicio. There was no trouble until recently, when Lucio was taken sick while his brother remained perfectly well.

The twins are 4 years old. They were discovered by gold a year ago.

Recently physicians in Los Angeles advised the separation of the twins, but the children could not be separated. It is the belief of others, however, that a successful operation can be performed.

## COL. PADEN BROKE.

### Had Three Dollars in Real Money When Up in Supplementary Proceedings.

Col. Mike Clarence Padden, former military secretary to Big Tim Sullivan, commander of the irregular troops of the Bowery and Water Register until he was removed last year by Water Commissioner Thompson, has declared himself broke. Col. Padden went out of office in January, 1910, and since then he hasn't been working steadily.

It seems that a couple of years ago Col. Padden, at that time Admiral of the good ship Antietam, indorsed a \$500 note issued by the William C. Fay Banking Company to Hans Roes & Sons Company. A judgment for \$151.37 was secured and supplementary proceedings were resorted to in the City Court. On that particular occasion Col. Padden described himself as the possessor of \$2 in real money and a number of debts. He said that he had scarcely enough for living expenses. Three months ago he gave up his apartments in the Occidental Hotel at 118 Bowery.

The Colonel refused last night to discuss such personal matters and said that it was his business and no one else's. The court examination was adjourned to January 20.

## HORSE THROWS J. H. STOKER.

### Real Estate Man Hurt by Fall From Skittish Mount in Central Park.

John H. Storer of 281 Beacon Street, Boston, a cousin of Bellamy Storer, and secretary of the Wood-Harmon-Richmond Realty Company and treasurer of the Wood-Harmon Bond Company of this city, attempted to ride an untrained horse beneath the stone arch under the Central Park west drive at Seventy-second street yesterday. The horse reared and threw Mr. Storer backward from the saddle.

Mr. Storer was picked up unconscious and taken to the Presbyterian Hospital. The attention of the police was called to the University Club, where he is staying. He was badly bruised, but took a taxi cab to the University Club, where he is staying. He telephoned his family in Boston that he was not seriously hurt.

After throwing his rider the horse ran south until a mounted policeman caught him at Sixty-eighth street.

## POLICE FAR NIENTE.

### Another Lieutenant of Harbor A Was Resting When Driscoll Called.

Charges are being prepared against Police Lieutenant Robert E. Mills, who was transferred yesterday from the Harbor A station to Union Market on the ground of laxity in the conduct of the station house while he was on duty.

On the night of December 31 last Deputy Commissioner Driscoll and Chief Inspector Schumberger went into the Harbor A station and found Lieut. Mills asleep behind the blotter. He was transferred to the Ralph Avenue station in Brooklyn on January 3 and charges have been made against him. Lieut. Mills was put in his place.

On Sunday, January 8, Commissioner Driscoll again visited the harbor station. The desk room was empty, but a pair of feet stretched from the doorway leading into the lounge room. The Commissioner looked over the blotter, strolled around the room and went in to interview the desk clerk. He was immediately upon them. He had not been asleep, he said.

No one will take his place at Harbor A. The Commissioner believes that the three desk lieutenants left will be able to serve eight hours shifts without being overworked.

## BONDS & STOCK CERTIFICATES.

Registered and printed by Corlies, Macy & Co., Inc., 49 John Street. Established 1857.—10c.

## SURE SCHENK WAS POISONED

### DOCTORS TELL OF SYMPTOMS AND OF FINDING ARSENIC.

Food and Medicine Tampered With in Patient's Home Until He Was Removed to Hospital—Almost a Riot in Court Among Crowd Seeking Seats.

WHEELING, W. Va., Jan. 10.—Dr. Frank LeMoine Hupp, the physician attending John O. Schenk, whose wife, Laura Farnsworth Schenk, is on trial on the charge of administering poison in his food, drink and medicine with murderous intent, was the principal witness in the case to-day.

He was on the stand the entire afternoon and his cross-examination will begin to-morrow.

Of the three hundred spectators in the court room to-day one hundred were women. During the noon recess the court room doors were left unlocked and more than five hundred persons crowded into the room, occupying the jurors' box, chairs reserved for newspaper men and the court clerk. There was almost a riot when deputy sheriffs tried to drive out the crowd of curious persons.

When the case was resumed after the noon adjournment, Messrs. O'Brien & O'Brien and S. O. Boyce, counsel for the accused, brought Dr. J. K. Osborne to assist them in the examination of physicians, who are giving many technical descriptions in their testimony.

Dr. Hupp on direct examination by Prosecuting Attorney J. B. Handlan said he was first called to the Schenk home at 10 o'clock on the evening of October 13. The first person he met was Mrs. Schenk, who told him that her husband was ill and that he had been at the city hospital, but that she was not satisfied with conditions there.

Schenk told him he had been suffering from loss of appetite, pains in the stomach and vomiting. Mrs. Schenk was present during his first examination of the patient. Dr. Hupp noticed a dark line about the gums and a dirty-colored tongue. Schenk's heart action was faster than it should have been. Witness said he did not reach a conclusion at that time as to the nature of Schenk's ailment. On October 15 he was not at the Schenk home. Mrs. Mary Dopkin, Schenk's sister, who informed him Mrs. Schenk was ill. He found her in bed and when he asked her if she was ill she said she was not, only tired.

"Doctor, on the 15th did you find out whether your directions of the 14th had been carried out?" asked the Prosecutor.

"I found that my directions had not been carried out," he replied.

"With who did you leave these directions?"

"With Mrs. Schenk."

When asked how he discovered his instructions had not been carried out, Dr. Hupp said he found Robert, the son of Mr. and Mrs. Schenk, ill. A nurse was engaged. An examination of the excretions showed a slight trace of albumen. When he visited the house on October 19 he found Mrs. Schenk sitting in a chair with her arms around her son. She said "If it was not for my darling sweetheart I wish I was not here." She had been crying and looking up to the doctor said "Doctor, perhaps I would be better satisfied if you would let me die."

The physician said his attention was first called to the food and drink of the patient by Miss Evans, the nurse. In the medicine the physician prescribed arsenic was given. One-ninth of a grain to the ounce. On one occasion when Schenk had pains and complained Mrs. Schenk said her husband had "the Schenk stomach."

The nurse had given Dr. Hupp a specimen of the balladale water that he had prescribed for the patient. Samples of the water were sent for analysis to the University of Virginia and to the Johns Hopkins University at Baltimore. Reports of the analysis came by telegraph, but the witness was not asked to tell the information given in the telegrams. Both the chemists who made the analyses are to testify at the trial.

After receiving the analysis reports Dr. Hupp said he informed Albert Schenk, the patient's brother, and Dr. T. M. Haskins, brother-in-law of the sick man. Then Schenk was removed to the North Wheeling Hospital.

Dr. Hupp said he had found indications of foreign substances in the patient's medicine. Some of the medicine had been taken to the hospital, but the nurses were instructed not to give it to the patient. Mrs. Schenk wanted her husband brought home from the hospital and said she would take matters into her own hands. Marked medicine bottles had been placed on the window ledge of John Schenk's room at the hospital.

Mrs. Schenk was arrested on the night of November 8 because the marked bottles had been tampered with.

John E. Wolfe, an intimate friend of John Schenk, who accompanied him on his tour of Europe, was the first witness called. He gave a detailed account of the tour. He said Schenk was in the best of health throughout the trip and on his arrival home on the Marettania June 17 of last year. Two days after reaching home, however, Schenk complained of stomach trouble. Up until the second week he noticed Schenk's condition gradually growing worse. On Saturday night of that week while he was recomposing him home Schenk said, "I must stop here, I'm feeling sick." Witness said they stopped in the White Star saloon, where Schenk went into the lavatory, where he remained so long that Wolfe went in to see what was wrong. Schenk said "Billy, I'm all in. If I must die I have no fear."

Dr. D. B. Best, the first physician called to attend Schenk, said he was called on October 1, 2 and 3 and found Schenk had pains in the stomach and bowel trouble. He was excused with the statement by the Prosecutor that he would be recalled.

Dr. Gregory Ackerman, who attended Schenk after Dr. Best, testified that on examining the sick man he found inflammation of stomach and intestines.

Dr. Ackerman told of stomach tests that were made. Food taken by the patient at home showed traces of poisoning when pumped from the stomach. That eaten at the hospital showed no trace of poison.

## FRANCO EXILED.

### Portuguese Ship Ex-Dictator to the Border in an Auto.

LISBON, Jan. 10.—Ex-Premier Franco has left Portugal an exile.

He was conducted to the frontier in an automobile by a Government representative and he is now at Biarritz.

## 9 OF 10 MURDERERS LET GO.

### State Parole Board Holds a Meeting With That Result.

AUBURN, N. Y., Jan. 10.—At a regular meeting of the State Parole Board here to-day nine out of ten murderers were successful in their applications to be released under the new laws. There were forty-eight convicts who came before the board and twenty-one were successful. Of the fourteen applicants distinguished from the others because this was their first effort to obtain freedom ten were murderers and of these nine were successful.

## ROMA'S CAPTAIN DIES AT SEA.

### Fell Unconscious on the Bridge as the Steamship Reached Marseilles.

The Fabre Line office in this city received word yesterday of the death on Christmas Day, as the steamship Roma was entering the harbor of Marseilles, of Capt. Albert Courade, who dropped unconscious on the bridge. The chief officer assumed command and the shipper was carried to his cabin. He was dead when the ship's surgeon reached him. Capt. Courade had been with the Fabre Line since its organization in 1881. His wife and two children were waiting for him in Marseilles.

## ALVIN W. KRECH HORRIFIED.

### Jewelry and Silver Vanish From Equitable Trust Man's House.

ALVIN W. Krech, president of the Equitable Trust Company, has lost jewelry and silverware worth about \$2,250. The property was taken from his house, 19 East Seventieth street, last Friday.

Mr. Krech reported the loss to the National Surety Company, 115 Broadway, with which he held a burglar insurance policy providing also for other forms of theft, and the matter was also reported to the police.

## OFF STALLO'S BOND.

### Surety Cos. Want His Daughters' Estate Taken Out of His Hands.

Edmund K. Stallo, who has been removed as executor of the estate of his first wife, Helen McDonald Stallo, and of the estate of his father, Alexander McDonald, may also be removed as the guardian of his two daughters, Laura and Helen McDonald Stallo. The surety companies on his bond asked Surrogate Colahan yesterday to be relieved and also asked for his removal. The Surrogate relieved the surety companies and refused decision on the other motion.

Charles H. Stoll, counsel for Stallo, in opposing his removal said that Stallo put up bonds greatly in excess of the amount required. The law required only \$500 under the original order appointing him, but subsequently when he was appointed he got hold of \$5,000 income due the girls he had to put up \$15,000 more. Later when he was authorized to take possession of 333 shares of Standard Oil stock for the maintenance of his daughters he had to give an additional bond of \$25,000. Stallo quit paying the premium and the surety company shut off the income from the stock, and he has had to borrow money to support his daughters, the lawyer said.

## BENJAMIN CRAMP DEAD OF GAS.

### Member of Shipbuilding Family Found Asphyxiated in Bathroom.

PHILADELPHIA, Jan. 10.—Benjamin Cramp of the family of shipbuilders was found unconscious in the bathroom at his home to-night at 7 o'clock. He died two hours later at the Pennsylvania Hospital of gas poisoning.

He was found by Mrs. Cramp, who on her return from a call smelled gas.

Finding the bathroom locked she knocked, but got no response. When the door was forced she found Mr. Cramp seated on a chair, with his pipe and a magazine beside him. The room was filled with gas from an open jet.

A member of the family said it was believed that Mr. Cramp's death was the result of accident.

## STOOD OFF POLICE FIVE HOURS.

### Nine London Police Men Against Sultana's Building—Meantime Victory.

LONDON, Jan. 10.—The police force faced a new task to-day and were held at bay for five hours. A new building of the name of Hyatt, who is supposed to have been an American, was found lying on the floor of his lodgings with throat cut. The police were called in, but when they attempted to enter the room they were met with threats of violence from Hyatt's bulldog, which would not allow them near the body.

Prolonged coaxing and maneuvering by nine policemen did not avail to shake the animal's fidelity. Before the Scots Guards could be summoned somebody succeeded in poisoning, and a piece of meat loaded with strychnine gave the police the victory.

## CONVEY 10 CENT FARE UPHELD.

### Public Service Board Splits Three to Two in Its Decision.

The Public Service Commission reached a decision yesterday upholding the ten cent fare to Coney Island. The board was divided on the issue, the vote being three to two. Commissioners Bassett and McBride were the two members who held that five cents was sufficient. Commissioner Eastis wrote the majority opinion.

## HIGH SCHOOL GIRL BREAKFREAKS.

### The first bricks for the Washington Irving High School, in Irving place between Sixteenth and Seventeenth streets, were laid yesterday afternoon by girls of the school with the help of the builders.

There were present at the function, according to Principal McAndrew, the tallest girl, the littiest girl, the youngest girl, the president of the senior class, and the mascot board of aural haired ones.

## HEAVY GOLF STORM.

### VERA CRUZ, MEXICO, Jan. 10.—The Gulf coast region of Tabasco, Campeche and Yucatan has been swept for several days by the severest storm known there for more than twenty years. Enormous damage was done to property and probably many lives were lost. Shipping interests suffered heavily.

## THE BIG ARGUMENT

### IN TOBACCO CASES

#### Justices Greatly Interested and Questioning the Wrangling Lawyers.

#### MEANING OF SHERMAN ACT

#### Justice Harlan, Sadly Complains of Poor Quality of Present Day Tobacco.

WASHINGTON, Jan. 10.—The business methods of the American Tobacco Company were defended to-day in the Supreme Court by attorneys John G. Johnson and De Lancey Nicoll, while William B. Hornblower did a like service for the Imperial Tobacco Company of Great Britain, which was brought into the suit filed by the Government as one of the defendants to the charge of being engaged in a conspiracy in restraint of trade. Incidentally the Sherman law was construed by counsel in a way to exempt the American Tobacco Company from its penalties. The argument was varied at times by flashes of humor, as when Justice Harlan, who is celebrated as a chewer of tobacco, complained to Attorney Hornblower of the poor quality of chewing tobacco on the market.

"It is rotten," observed the Justice mournfully. "We cannot get any good chewing tobacco any more."

Mr. Hornblower, who was in the act of defending his British client, the Imperial company, solemnly acquiesced that concern of the responsibility.

"The English people do not chew, I am told," said Mr. Hornblower. "Personally I have no knowledge of the quality of chewing tobacco. I presume the only demand for it in Great Britain is by Americans who are abroad and demand the comforts of home."

Chief Justice White aroused some interest by telling De Lancey Nicoll that a planter in Louisiana had complained to him that the tobacco trust methods had ruined the business of tobacco growing. "The story may have been untrue," added the Chief Justice.

Mr. Hornblower discussed the scope and application of the Sherman anti-trust law. He summarized the points that have been settled by the courts in construing the law as follows:

First, that every such contract in restraint of trade is not necessarily invalid.

Second, that the contract for the purchase of a business with covenants not to compete is not invalid.

Third, a manufacturer has the right to buy off a dangerous rival, even if such purchase works an incidental restraint of trade, if the principal object is to protect a business.

At the suggestion of Chief Justice White it was agreed that Mr. Hornblower's summary should be submitted to the court later as supplementing his brief, and the order was extended by agreement among counsel to include all oral arguments made in the cases.

There was unusual interest manifested in the brief argument of John G. Johnson, the Philadelphia lawyer. He declared that the Sherman law was a statute to promote commerce, not to restrain it. The Government proposed to force the American Tobacco Company, which had three-fourths of the commerce, to quit business and permit the concerns that had only one-fourth to continue. The effect of the decree asked by the Government's counsel, according to Mr. Johnson, would be to drive the American Tobacco Company out of business and thus inflict a destruction of its property, a form of punishment never contemplated by the law. He planted the defiance on the court's decision in the Knight case, which he said applied.

The object of the Sherman law, Mr. Johnson averred, was not to make a new law against conspiracies in restraint of trade, but to apply the principles of the common law. There was no Federal common law; the enactment applied the common law but did not enlarge on it.

"There is no word in the Sherman act to forbid acquisition of property," said Mr. Johnson. "The most valuable acquisitions by the American Tobacco Company were of good will, trademarks and brands." He insisted there was no authority in Congress to forbid a sale of property.

"The Legislature cannot compel a man to compete," said Attorney Johnson. "If there is no legal duty to compete and a buys B or B buys A no law has been violated, for no legal obligation has thereby been violated. Individuals and private corporations owe no legal duty to compete. The Northern Securities case differs from the present case because it was a public service corporation and has a legal obligation to the public to compete."

"Monopolizing is more than acquisition," continued Mr. Johnson. "Combinations in themselves are not unlawful. It is their abuses that are unlawful as common law and are unlawful under the Sherman act."

De Lancey Nicoll in concluding his argument declared that the theory of the Government was that there is a stifling of competition by every purchase of new property made by the trust.

"There is no competition between the snuff used by the Swedes in the Northwest and the snuff highly flavored with wintergreen used by New England farmers," said Mr. Nicoll.

Mr. Nicoll reminded the court that the late Justice Peckham had held that the mere purchase of a competing concern did not of itself constitute a restraint

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